

Dated: November 8, 2010

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

Kevin M. Sadler

Texas Bar No. 17512450

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Scott D. Powers

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ATTORNEYS FOR RECEIVER
RALPH S. JANVEY

CERTIFICATE OF SERVICE

On November 8, 2010, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve Ben Barnes and Ben Barnes Group, L.P. individually or through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler

Kevin M. Sadler

EXHIBIT A

extensions of these deadlines. Motions may become moot due to trial if filed after the deadline in this Order.

a. **April 4, 2011** – mediation; the parties may eliminate this requirement by agreement; the parties should advise the court if they are unable to agree on a mediator; all parties must attend the mediation in person; legal entities must provide a representative with full authority; if there is insurance per Rule 26(a)(1)(D), a representative with full authority must attend in person; the parties and mediator may by agreement waive the requirement of attending in person;

b. **May 6, 2011** – party with burden of proof must disclose experts pursuant to Rule 26(a)(2);

c. **June 6, 2011** – disclosure of opposing experts pursuant to Rule 26(a)(2);

d. **June 21, 2011** – disclosure of rebuttal experts pursuant to Rule 26(a)(2) or supplementation with rebuttal opinions pursuant to Rule 26(e)(1);

e. **July 6, 2011** – discovery closes; discovery requests must be served in time to permit response by this date;

f. **July 6, 2011** – all motions, including any objections to expert testimony, must be filed.

5. To facilitate orderly preparation for trial, the Court conducts an expedited discovery hearing docket on Monday afternoons. Any party may request expedited hearing of a discovery dispute. Requests must be made by separate letter to the Court's Judicial Assistant, Donna Hocker, and must be received at least ten (10) days prior to the requested docket; requests may be made concurrently with filing the motion. If the matter is set on the expedited docket, the Court will advise the parties of applicable procedures by separate order.

Seeking relief from the Court on discovery disputes prior to conducting a meaningful, substantive conference with the opposing party is **STRONGLY** discouraged. A motion or objection to the taking of a deposition that is filed within three business days of the notice has the effect of staying the deposition pending court order on the motion or objection; otherwise the deposition will not be stayed except by court order.

6. The parties shall file all pretrial materials 30 days before trial. Failure to file pretrial materials may result in dismissal for want of prosecution. Pretrial materials shall include the following:

- a. pretrial order pursuant to LR 16.4;
- b. exhibit lists, witness lists, and deposition designations pursuant to LR 26.2 and Rule 26(a)(3); witness lists should include a brief summary of the substance of anticipated testimony (not just a designation of subject area) and an estimate of the length of direct examination; exhibit lists must include any materials to be shown to the court, including demonstrative aids; the parties shall comply with Rule 26(a)(3) regarding objections;
- c. proposed findings of fact and conclusions of law pursuant to LR 52.1;
- d. motions in limine; matters that are not case-specific are strongly discouraged.

7. The final pretrial conference will be set by separate order or notice. The Court will likely impose time limitations for trial at the pretrial conference. Examination of witnesses will be limited to direct, cross, re-direct, and re-cross. Any questions regarding this Order may be directed to the Court's Judicial Assistant, Donna Hocker, at 214-753-2700.

SIGNED this _____ day of _____, 2010.

DAVID GODBEY
UNITED STATES DISTRICT JUDGE

EXHIBIT B

From: Powers, Scott
Sent: Wednesday, October 27, 2010 12:50 PM
To: 'Madrid, Jay'
Cc: Sadler, Kevin; Howell, Dustin
Subject: Janvey v. Ben Barnes et al., Case No. 3:10-cv-00527-N
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Agreed Scheduling Order AUS01 591795 1.DOC

Jay:

We would like to go ahead and ask the Court to enter a scheduling order in the above-referenced case. Can you please review the attached and let us know if it is acceptable to you and/or what would be a good time to discuss?

Thanks,
Scott

Scott D. Powers
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extensions of these deadlines. Motions may become moot due to trial if filed after the deadline in this Order.

a. **February 4, 2011** – mediation; the parties may eliminate this requirement by agreement; the parties should advise the court if they are unable to agree on a mediator; all parties must attend the mediation in person; legal entities must provide a representative with full authority; if there is insurance per Rule 26(a)(1)(D), a representative with full authority must attend in person; the parties and mediator may by agreement waive the requirement of attending in person;

b. **March 7, 2011** – party with burden of proof must disclose experts pursuant to Rule 26(a)(2);

c. **April 6, 2011** – disclosure of opposing experts pursuant to Rule 26(a)(2);

d. **April 21, 2011** – disclosure of rebuttal experts pursuant to Rule 26(a)(2) or supplementation with rebuttal opinions pursuant to Rule 26(e)(1);

e. **May 6, 2011** – discovery closes; discovery requests must be served in time to permit response by this date;

f. **May 6, 2011** – all motions, including any objections to expert testimony, must be filed.

5. To facilitate orderly preparation for trial, the Court conducts an expedited discovery hearing docket on Monday afternoons. Any party may request expedited hearing of a discovery dispute. Requests must be made by separate letter to the Court's Judicial Assistant, Donna Hocker, and must be received at least ten (10) days prior to the requested docket; requests may be made concurrently with filing the motion. If the matter is set on the expedited docket, the Court will advise the parties of applicable procedures by separate order.

Seeking relief from the Court on discovery disputes prior to conducting a meaningful, substantive conference with the opposing party is **STRONGLY** discouraged. A motion or objection to the taking of a deposition that is filed within three business days of the notice has the effect of staying the deposition pending court order on the motion or objection; otherwise the deposition will not be stayed except by court order.

6. The parties shall file all pretrial materials 30 days before trial. Failure to file pretrial materials may result in dismissal for want of prosecution. Pretrial materials shall include the following:

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- c. proposed findings of fact and conclusions of law pursuant to LR 52.1;
- d. motions in limine; matters that are not case-specific are strongly discouraged.

7. The final pretrial conference will be set by separate order or notice. The Court will likely impose time limitations for trial at the pretrial conference. Examination of witnesses will be limited to direct, cross, re-direct, and re-cross. Any questions regarding this Order may be directed to the Court's Judicial Assistant, Donna Hocker, at 214-753-2700.

SIGNED this _____ day of _____, 2010.

DAVID GODBEY
UNITED STATES DISTRICT JUDGE

AGREED:

Scott D. Powers
Attorney for Plaintiff

Jay Madrid
Attorney for Ben Barnes

EXHIBIT C

From: Madrid, Jay [jmadrid@winstead.com]
Sent: Monday, November 01, 2010 12:30 PM
To: Howell, Dustin
Subject: RE: Scheduling order for Janvey/Barnes litigation

Dustin : I'm in hearings in Dallas , but will call when I finish . Has the Court ruled on my Motion to Dismiss ? I 'm quite sure we need that ruling before entry of a scheduling order . I'll check the court's docket and get back to you . Thanks

From: dustin.howell@bakerbotts.com [mailto:dustin.howell@bakerbotts.com]
Sent: Monday, November 01, 2010 10:36 AM
To: Madrid, Jay
Cc: scott.powers@bakerbotts.com
Subject: Scheduling order for Janvey/Barnes litigation

Hello Mr. Madrid,

I just left you a voicemail, but thought I would follow up with an email. We sent you a scheduling order (attached) last week for the above-referenced case, and I wanted to follow up to find out if you had any questions/concerns about the order. We were hoping to get this on file with the court soon, so if you have a minute, we would appreciate it if you could sign it and get it back to us, assuming everything looks good to you. If you have any questions, feel free to call or email.

<<Stanford-Barnes Scheduling Order.pdf>>

Thanks,

Dustin M. Howell

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EXHIBIT D

From: Madrid, Jay [jmadrid@winstead.com]
Sent: Monday, November 08, 2010 12:04 PM
To: Howell, Dustin
Subject: RE: Scheduling Order for Janvey/Barnes litigation, Case No. 3:10-cv-00527-N

Dustin : Thank you for sending this for my review . I respectfully oppose on the ground you summarized , and please add that it is particularly important given the fact that Mr. Barnes has been sued individually and the propriety of his inclusion should be determined before processing the case . Thank you .

From: dustin.howell@bakerbotts.com [mailto:dustin.howell@bakerbotts.com]
Sent: Monday, November 08, 2010 10:41 AM
To: Madrid, Jay
Cc: scott.powers@bakerbotts.com
Subject: Scheduling Order for Janvey/Barnes litigation, Case No. 3:10-cv-00527-N

Mr. Madrid,

The Receiver intends to file a motion to enter a scheduling order in the above-referenced case today. The order we are proposing is similar to the one we sent to you previously, except that we have moved the dates back approximately 60 days. Please let us know whether the defendants will agree to entry of the attached order. If we do not hear back from you by the end of the day we will assume the defendants are opposed to entry of the scheduling order, based on your prior email indicating that the defendants believe the motion to dismiss must be resolved before a schedule can be entered. Feel free to contact me with any questions you may have.

<<Revised Barnes Scheduling Order.pdf>>

Regards,

Dustin M. Howell

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